

1 NIMALKA R. WICKRAMASEKERA (SBN: 268518)
nwickramasekera@winston.com
2 DAVID P. DALKE (SBN: 218161)
ddalke@winston.com
3 WINSTON & STRAWN LLP
333 S. Grand Avenue
4 Los Angeles, CA 90071-1543
Telephone: (213) 615-1700
5 Facsimile: (213) 615-1750

6 GEORGE C. LOMBARDI (*Pro Hac Vice*)
glombardi@winston.com
7 BRIAN J. NISBET (*Pro Hac Vice*)
bnisbet@winston.com
8 SARANYA RAGHAVAN (*Pro Hac Vice*)
sraghavan@winston.com
9 WINSTON & STRAWN LLP
35 West Wacker Drive
10 Chicago, IL 60601-9703
Telephone: (312) 558-5600
11 Facsimile: (312) 558-5700

12 CORINNE STONE HOCKMAN (*Pro Hac Vice*)
chockman@winston.com
13 WINSTON & STRAWN LLP
800 Capitol Street, Suite 2400
14 Houston, TX 77002-2925
Telephone: (713) 651-2600
15 Facsimile: (713) 651-2700

16 Attorneys for Defendants
ALPHATEC HOLDINGS, INC. AND
17 ALPHATEC SPINE, INC.

18 **UNITED STATES DISTRICT COURT**

19 **SOUTHERN DISTRICT OF CALIFORNIA – SAN DIEGO DIVISION**

20 NUVASIVE, INC., a Delaware
corporation,

21 Plaintiff,

22 v.

23 ALPHATEC HOLDINGS, INC., a
24 Delaware corporation, and ALPHATEC
SPINE, INC., a California corporation,

25 Defendants.
26

) Case No. 18-CV-00347-CAB-MDD

) **JOINT STIPULATION**
) **CONTINUING HEARING ON**
) **NUVASIVE’S MOTION TO**
) **STRIKE INVALIDITY**
) **CONTENTIONS**

) Judge: Hon. Cathy Ann Bencivengo

27
28

1 Plaintiff NuVasive, Inc. (“NuVasive”) and defendants Alphatec Spine, Inc.
2 and Alphatec Holdings, Inc. (collectively, “Alphatec”), by and through their
3 respective counsel, jointly request that the Court continue the hearing on NuVasive’s
4 Motion to Strike Alphatec’s Invalidity Contentions (“Motion”) (Doc. No. 296) to
5 January 22, 2021.

6 NuVasive filed its Motion on November 25, 2020. Pursuant to Section II.A
7 of this Court’s chambers rules, the noticed hearing date on NuVasive’s Motion is
8 currently set for December 30, 2020, or thirty-five days from filing. Per the local
9 rules, the parties’ briefing schedule follows from the noticed motion hearing date as
10 follows:

- 11 • Alphatec’s opposition is currently due on December 16, 2020; and
- 12 • NuVasive’s reply is currently due on December 23, 2020.

13 Because Alphatec’s opposition is due just two days before its rebuttal expert
14 report deadline of December 18, 2020 (*see* Doc. No. 293 at 2), and because the
15 parties desire to avoid briefing a motion immediately surrounding another deadline
16 and the late-December holiday schedule, the parties ask that the Court continue the
17 December 30, 2020 hearing date on NuVasive’s Motion to January 22, 2021 in order
18 to extend the briefing schedule. Under the local rules, therefore, the parties’ new
19 briefing schedule would be as follows:

- 20 • Alphatec’s opposition would be due on January 8, 2021; and
- 21 • NuVasive’s reply would be due on January 15, 2021.

22 This briefing schedule will not impact any other dates on the case schedule. The
23 parties have not requested oral argument at this time. To the extent that the Court
24 orders oral argument, the parties request that it take place on, but not later than,
25 January 22, 2021, if this Court’s schedule allows.

26 Accordingly, good cause exists to continue the hearing on NuVasive’s Motion
27 to January 22, 2021.

28

1 Dated: November 30, 2020

WINSTON & STRAWN LLP

2

By: /s/ Brian J. Nisbet

3

BRIAN J. NISBET

4

Attorneys for Defendants
ALPHATEC HOLDINGS, INC. AND
ALPHATEC SPINE, INC.

5

6

7

Dated: November 30, 2020

WILSON SONSINI GOODRICH &
ROSATI, P.C.

8

9

By: /s/ Paul D. Tripodi II

10

Paul D. Tripodi II

11

Attorneys for Plaintiff
NUVASIVE, INC.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SIGNATURE ATTESTATION

I, Brian Nisbet, hereby attest that I obtained the concurrence of Paul D. Tripodi II in filing this document. I declare under penalty of the laws of the United States that the foregoing is true and correct.

Executed this 30th day of November 2020 at Chicago, Illinois.

Dated: November 30, 2020

WINSTON & STRAWN LLP

By: /s/ Brian J. Nisbet
BRIAN J. NISBET

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed with the Court's CM/ECF system which will provide notice on all counsel deemed to have consented to electronic service. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing document by mail on this day.

Dated: November 30, 2020

WINSTON & STRAWN LLP

By: /s/ Brian J. Nisbet

BRIAN J. NISBET